

501. We also seek input on whether, in light of marketplace and other changes, we should revise or clarify our requirements regarding ownership of the facilities in question.<sup>1216</sup> In the *USF First Report and Order*, the Commission made clear that the facilities used must be the ETC's "own," meaning that the ETC must have the exclusive right to use the facilities to provide the supported services.<sup>1217</sup> The Commission concluded that if a carrier has obtained exclusive use of facilities, such as an unbundled loop, it would be treated as a carrier's "own facilities."<sup>1218</sup> The Commission has also held that if an ETC leases facilities from another carrier and uses such facilities to provision the USF supported services, the ETC has exclusive rights to those facilities and therefore "owns" the facilities as required under section 214(e)(1)(A).<sup>1219</sup> We seek comment on whether we should further clarify the meaning of how a carrier should "own" the facilities used to provision the supported services. If the ETC leases facilities jointly with one or more carriers that it uses to provision the supported services, does that ETC have exclusive right to use the facilities? To provide further guidance for the designation process, is it necessary for the Commission to clarify what is meant by requiring that a facilities-based ETC have exclusive right to use facilities in the provisioning of the supported services?

#### J. Eligible Telecommunications Carrier Requirements

502. In the recent *USF/ICC Transformation Order and FNPRM*, the Commission sought comment on various issues relating to ETCs' existing service obligations to ensure that obligations and high-cost funding are appropriately matched, while avoiding consumer disruption in access to communications services. The Commission acknowledged that relinquishment of ETC status is governed by section 214(e)(4) of the Act, which directs states (or the Commission, for federally designated ETCs) to "permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier."<sup>1220</sup> The Commission proposed that existing ETC relinquishment and service area redefinition procedures, backstopped by the availability of forbearance from federal requirements, would provide an appropriate case-by-case framework in which to address these issues in the near term.<sup>1221</sup> It also sought comment on how to ensure that low-income consumers across America continue to have access to Lifeline service, both in urbanized areas and in rural areas. In particular, it asked whether as a matter of federal policy, it would "thwart achievement of the objectives established by Congress to relieve an existing ETC of the obligation to provide Lifeline if there was no other ETC in that particular area willing to offer Lifeline services."<sup>1222</sup>

503. In this proceeding, AT&T suggests that the Commission should allow incumbent wireline Lifeline providers to choose whether to participate in the Lifeline program, arguing that wireline telephone companies are no longer the dominant provider of voice services.<sup>1223</sup> We seek further targeted comment on this suggestion in this docket, and how it might be implemented given the statutory framework for revocation of ETC designations set forth in section 214. How would this Commission, or

<sup>1216</sup> See *Virgin Mobile Forbearance Order*, 25 FCC Rcd at 3388, paras. 15-16 (explaining that due to Sprint's acquisition of Virgin Mobile, the company is "facilities-based" because it now enjoys "beneficial use of Sprint's wireless facilities" without arm's length transactions or purchase of service from Sprint).

<sup>1217</sup> See *Universal Service First Report and Order*, 12 FCC Rcd at 8866, para. 160.

<sup>1218</sup> 47 C.F.R. § 54.201(f); *Universal Service First Report and Order*, 12 FCC Rcd at 8865, para. 158.

<sup>1219</sup> See *Universal Service First Report and Order*, 12 FCC Rcd at 8865, para. 158, n. 407.

<sup>1220</sup> 47 U.S.C. § 214(e)(4).

<sup>1221</sup> *USF/ICC Transformation Order and FNPRM*, FCC 11-161 at para. 1097.

<sup>1222</sup> *Id.* at para. 1102.

<sup>1223</sup> See AT&T Jan. 24 *ex parte* Letter at 1.



the states, ensure that low-income consumers in all regions of the country have “access to telecommunications and information services”?<sup>1224</sup> How would one take into account that there may be portions of a given state where the incumbent Lifeline provider is the only provider of service? What factual determinations would need to be made regarding the presence of other eligible telecommunications carriers?

504. In the *Lifeline and Link Up NPRM*, the Commission also sought comment on AT&T’s proposal that all providers of voice and broadband services register to become Lifeline providers, outside of the current ETC designation process.<sup>1225</sup> In response, a number of parties supported the idea of simplifying the process for carriers to participate in the Lifeline program,<sup>1226</sup> while others opposed eliminating the ETC designation process.<sup>1227</sup> MetroPCS suggests that the Commission implement a voucher-based Lifeline program in which Lifeline discounts would be provided directly to eligible low-income consumers.<sup>1228</sup> Are there modifications to this proposal that would be necessary to comply with statutory requirements? We seek to further develop the record on these proposals and concrete steps that we could take to simplify carrier participation in the program, while protecting against waste, fraud and abuse.

#### K. Record Retention Requirements

505. Without proper documentation, it is difficult to conduct effective audits of Lifeline service providers. Our rules currently require ETCs to maintain records to document their compliance with state and federal low-income program rules for the three full preceding calendar years.<sup>1229</sup> ETCs must also maintain documentation of consumer eligibility for as long as the consumer receives Lifeline service from that ETC.<sup>1230</sup> In the *USF/ICC Transformation Order and FNPRM*, the Commission revised the record retention requirements for recipients of high-cost support to extend the retention period from five years to ten years. In so doing, the Commission determined that the high cost retention requirement of five years was inadequate for the purposes of litigation under the False Claims Act,<sup>1231</sup> which can involve conduct that relates back substantially more than five years.

506. We conclude that the same is true with respect to the record retention requirements for eligible telecommunications carriers receiving low-income universal service support. The current three-year record retention requirements, although adequate to facilitate audits of ETCs, are not adequate for purposes of litigation under the False Claims Act. Thus, we propose to amend section 54.417 of the Commission’s rules to extend the retention period for Lifeline documentation, including subscriber-specific eligibility documentation, to at least ten years. ETCs will continue to maintain documentation of consumer eligibility for at least ten years and for as long as the consumer receives Lifeline service from that ETC, even if that period extends beyond ten years. We seek comment on this proposal.

<sup>1224</sup> 47 U.S.C. § 254(b)(3).

<sup>1225</sup> *Lifeline and Link Up NPRM*, 26 FCC Rcd at 2864-65, paras. 310-312.

<sup>1226</sup> See, e.g., Viasat Comments at 7-8; Consumer Cellular Comments at 23; Iridium Comments at 5.

<sup>1227</sup> See, e.g., DC PSC Comments at 8; NE PSC Comments at 14.

<sup>1228</sup> See Letter from Carl Northrop, Telecommunications Law Professionals, on behalf of MetroPCS, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. No. 11-42 *et al.*, (filed Jan. 25, 2012).

<sup>1229</sup> 47 C.F.R. § 54.417(a).

<sup>1230</sup> *Id.*

<sup>1231</sup> 31 U.S.C. §§ 3729-33. Under the False Claims Act, carriers receiving funds under fraudulent pretenses may be held liable for a civil penalty of between \$5,000 and \$10,000, plus treble damages. 31 U.S.C. § 3729(a)(1).

#### XIV. DELEGATION TO REVISE RULES

507. Given the complexities associated with modifying existing rules as well as other reforms adopted in this Order, we delegate authority to the Wireline Competition Bureau to make any further rule revisions as necessary to ensure the reforms adopted in this Order are reflected in the rules. This includes correcting any conflicts between the new and or revised rules and existing rules as well as addressing any omissions or oversights. If any such rule changes are warranted, the Wireline Competition Bureau shall be responsible for such change. We note that any entity that disagrees with a rule change made on delegated authority will have the opportunity to file an Application for Review by the full Commission.<sup>1232</sup>

#### XV. PROCEDURAL MATTERS

##### A. Filing Requirements

508. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

##### B. Paperwork Reduction Act Analysis

509. This Report and Order contains new information collection requirements subject to the

---

<sup>1232</sup> See 47 U.S.C. § 155(c)(1).



Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. We describe the impacts that might affect small businesses, which include most businesses with fewer than 25 employees, in the FRFA in Appendix J, *infra*.

510. The *Further Notice of Proposed Rulemaking (FNPRM)* contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,<sup>1233</sup> we seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”<sup>1234</sup>

### C. Congressional Review Act

511. The Commission will send a copy of this *Report and Order and Further Notice of Proposed Rulemaking* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

### D. Final Regulatory Flexibility Analysis

512. The Regulatory Flexibility Act (RFA)<sup>1235</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>1236</sup> Accordingly, we have prepared a Final Regulatory Flexibility Analysis concerning the possible impact of the rule changes contained in the *Report and Order* on small entities. The Final Regulatory Flexibility Analysis is set forth in Appendix J.

### E. Initial Regulatory Flexibility Analysis

513. As required by the Regulatory Flexibility Act of 1980 (RFA),<sup>1237</sup> the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in the *Further Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix K. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the *FNPRM*, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Report and Order and Further Notice of Proposed Rulemaking*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory

---

<sup>1233</sup> Pub. L. No. 107-198.

<sup>1234</sup> 44 U.S.C. § 3506(c)(4).

<sup>1235</sup> *See* 5 U.S.C. § 601–612. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>1236</sup> 5 U.S.C. § 605(b).

<sup>1237</sup> *See* 5 U.S.C. § 603.



Flexibility Act.<sup>1238</sup>

## **XVI. ORDERING CLAUSES**

514. ACCORDINGLY, IT IS ORDERED, that pursuant to the authority contained in sections 1, 2, 4(i), 10, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 152, 154(i), 160, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, 1302, and sections 1.1 and 1.427 of the Commission's rules, 47 C.F.R. §§ 1.1, 1.427, this Report and Order is ADOPTED.

515. IT IS FURTHER ORDERED that. Part 54 of the Commission's rules, 47 C.F.R. Part 54, is AMENDED as set forth in Appendix A, and such rule amendments shall be effective thirty (30) days after publication of the text or summary thereof in the Federal Register, except for those rules and requirements that involve Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the Federal Register of OMB approval and of effective dates of such rules, and except for the amendments contained herein to 47 C.F.R. §§ 54.411, 54.412, 54.413 and 54.414 which shall become effective April 1, 2012; and 47 C.F.R. §§ 54.409 which shall become effective June 1, 2012.

516. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 10, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 152, 154(i), 160, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, 1302, and sections 1.1 and 1.421 of the Commission's rules, 47 C.F.R. §§ 1.1, 1.421, this Further Notice of Proposed Rulemaking is ADOPTED.

517. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rulemaking 30 days from publication in the Federal Register, and reply comments on or before 60 days from publication in the Federal Register.

518. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by AMERICAN BROADBAND & TELECOMMUNICATIONS is GRANTED to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

519. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by MILLENNIUM 2000, INC. is GRANTED to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

520. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by NORTH AMERICAN LOCAL, LLC is GRANTED to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

521. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by TOTAL CALL MOBILE, INC. is GRANTED to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

---

<sup>1238</sup> See 5 U.S.C. § 603(a).

522. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by AIRVOICE WIRELESS, LLC IS GRANTED to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

523. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 160, 214, 254, we forbear from applying section 214(e)(1)(A) of the Communications Act, 47 U.S.C. § 214(e)(1)(A), and section 54.201(d)(1) and (i) of the Commission's rules, 47 C.F.R. § 54.201(d)(1), (i), to American Broadband & Telecommunications, Millennium 2000, Inc., North American Local, LLC, Total Call Mobile, Inc. and Airvoice Wireless, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

524. IT IS FURTHER ORDERED that the Petition of Qwest, Inc. regarding self-certification of subscribers on Tribal lands, filed April 5, 2008, is GRANTED.

525. IT IS FURTHER ORDERED that the Petition of AMERICAN PUBLIC COMMUNICATIONS COUNCIL seeking a rulemaking regarding payphone service eligibility for Lifeline support, filed December 6, 2010, is DENIED.

526. IT IS FURTHER ORDERED that the Petition of AMERICAN PUBLIC COMMUNICATIONS COUNCIL for interim relief seeking to allow ETCs to receive Lifeline support for services provided to payphones, filed December 6, 2010, is DENIED.

527. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Report and Order and Further Notice of Proposed Rulemaking to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

528. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch  
Secretary



**APPENDIX A****Final Rules**

**For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:**

**PART 54 – UNIVERSAL SERVICE**

1. The authority citation for part 54 continues to read as follows:

47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

**Subpart A – General Information**

2. Amend § 54.5 by revising the definition of “eligible telecommunications carrier” to read as follows:

**§ 54.5 Terms and definitions.**

\*\*\*\*\*

Eligible telecommunications carrier. “Eligible telecommunications carrier” means a carrier designated as such under subpart C of this part.

\*\*\*\*\*

**Subpart B – Services Designated for Support**

3. Amend § 54.101 by revising paragraph (a) to read as follows:

**§ 54.101 Supported services for rural, insular and high cost areas.**

(a) Services designated for support. Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

\*\*\*\*\*

**Subpart C – Carriers Eligible for Universal Service Support**

4. Amend § 54.201 by revising paragraphs (a)(1) and (h) to read as follows:

**§ 54.201 Definition of eligible telecommunications carriers generally.**

(a) \*\*\*

(1) Only eligible telecommunications carriers designated under this subpart shall receive universal service support distributed pursuant to part 36 of this chapter, and subparts D and E of this part.

\*\*\*\*\*

(h) A state commission shall not designate a common carrier as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part.

\*\*\*\*\*

5. Revise § 54.202 to read as follows:

**§ 54.202 Additional requirements for Commission designation of eligible telecommunications carriers.**

(a) In order to be designated an eligible telecommunications carrier under section 214(e)(6), any common carrier in its application must:

- (1) (i) Certify that it will comply with the service requirements applicable to the support that it receives.
- (ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to



submit such a five-year plan.

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.

(5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

(b) Public Interest Standard. Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest.

(c) A common carrier seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal

Communications Commission. In addition, the Commission shall send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available.

**§ 54.209 [Removed]**

6. Section 54.209 is removed.

**Subpart E – Universal Service Support for Low-Income Consumers**

7. Revise § 54.400 to read as follows:

**54.400 Terms and definitions.**

As used in this subpart, the following terms shall be defined as follows:

- (a) Qualifying low-income consumer. A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in § 54.409.
- (b) Toll blocking service. “Toll blocking service” is a service provided by an eligible telecommunications carrier that lets subscribers elect not to allow the completion of outgoing toll calls from their telecommunications channel.
- (c) Toll control service. “Toll control service” is a service provided by an eligible telecommunications carrier that allows subscribers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.
- (d) Toll limitation service. “Toll limitation service” denotes either toll blocking service or toll control service for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation service” denotes both toll blocking service and toll control service.
- (e) Eligible resident of Tribal lands. An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on Tribal lands. For purposes of this subpart, “Tribal lands” include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska



Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands – areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, et. seq., as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412.

(f) Income. “Income” is all income actually received by all members of a household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

(g) Duplicative support. “Duplicative support” exists when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.

(h) Household. A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(i) National Lifeline Accountability Database or Database. The “National Lifeline Accountability Database” or “Database” is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.

(j) Qualifying assistance program. A “qualifying assistance program” means any of the federal, state, or Tribal assistance programs participation in which, pursuant to § 54.409(a) or (b), qualifies a consumer for

Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; Temporary Assistance for Needy Families; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR), and with respect to the residents of any particular state, any other program so designated by that state pursuant to § 54.409(a).

8. Revise § 54.401 to read as follows:

**§ 54.401 Lifeline defined.**

(a) As used in this subpart, Lifeline means a non-transferable retail service offering:

(1) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(2) That provides qualifying low-income consumers with voice telephony service as specified in § 54.101(a). Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an eligible telecommunications carrier charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers' Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

(b) Eligible telecommunications carriers may allow qualifying low-income consumers to apply Lifeline discounts to any residential service plan that includes voice telephony service, including bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail, and three-way calling. Eligible telecommunications carriers may also permit qualifying low-income consumers to apply their Lifeline discount to family shared calling plans.

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service for plans that:



- (1) Do not charge subscribers additional fees for toll calls; or
- (2) That charge additional fees for toll calls, but the subscriber voluntarily elects toll limitation service.

(d) When an eligible telecommunications carrier is designated by a state commission, the state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this subpart.

(e) Consistent with § 52.33(a)(1)(i)(C), eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

9. Amend § 54.403 to read as follows:

**§ 54.403 Lifeline support amount.**

- (a) The federal Lifeline support amount for all eligible telecommunications carriers shall equal:
- (1) **Basic support amount.** Federal Lifeline support in the amount of \$9.25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer, if that carrier certifies to the Administrator that it will pass through the full amount of support to the qualifying low-income consumer and that it has received any non-federal regulatory approvals necessary to implement the rate reduction.
  - (2) **Tribal lands support amount.** Additional federal Lifeline support of up to \$25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400 (e), to the extent that the eligible

telecommunications carrier certifies to the Administrator that it will pass through the full Tribal lands support amount to the qualifying eligible resident of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) Application of Lifeline Discount Amount.

(1) Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges must apply federal Lifeline support to waive the federal End User Common Line charges for Lifeline subscribers. Such carriers must apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers must apply the federal Lifeline support amount, plus any additional support amount, to reduce the cost of any generally available residential service plan or package offered by such carriers that provides voice telephony service as described in § 54.101, and charge Lifeline subscribers the resulting amount.

(2) Where a subscriber makes only a partial payment to an eligible telecommunications carrier for a bundled service package, the eligible telecommunications carrier must apply the partial payment first to the allocated price of the voice telephony service component of the package and then to the cost of any additional services included in the bundled package.

(c) Toll limitation service. An eligible telecommunications carrier providing toll limitation service voluntarily elected by Lifeline subscribers whose Lifeline plans would otherwise include a fee for placing a toll call that would be in addition to the per month or per billing cycle price of the subscriber's Lifeline service, shall, for April 2012 Lifeline disbursements through December 2013 Lifeline disbursements, receive support in an amount equal to the lesser of:

- (1) The eligible telecommunications carrier's incremental cost of providing either toll blocking services or toll control services to each Lifeline subscriber who has selected such service; or
- (2) The following amounts for each Lifeline subscriber who has selected toll blocking services or toll control services:



- (i) \$3.00 per month per subscriber during 2012; and
- (ii) \$2.00 per month per subscriber during 2013.

10. Add § 54.404 to Subpart E to read as follows

**§ 54.404 The National Lifeline Accountability Database.**

(a) State certification. An eligible telecommunications carrier operating in a state that provides an approved valid certification to the Commission in accordance with this section is not required to comply with the requirements set forth in paragraphs (b) and (c) of this section with respect to the eligible telecommunications carriers' subscribers in that state. A valid certification must include a statement that the state has a comprehensive system in place to prevent duplicative federal Lifeline support that is at least as robust as the system adopted by the Commission and that incorporates information from all eligible telecommunications carriers receiving low-income support in the state and their subscribers. A valid certification must also describe in detail how the state system functions and for each requirement adopted by the Commission to prevent duplicative support, how the state system performs the equivalent functions. The certification must be submitted to the Commission no later than six months from the effective date of this section of the Commission's rules to be valid. Such certification will be considered approved unless the Wireline Competition Bureau rejects the certification within 90 days of filing.

(b) The National Lifeline Accountability Database. In order to receive Lifeline support, eligible telecommunications carriers operating in states that have not provided the Commission with approved valid certification pursuant to paragraph (a) of this section must comply with the following requirements:

- (1) All eligible telecommunications carriers must query the National Lifeline Accountability Database to determine whether a prospective subscriber who has executed a certification pursuant to § 54.410(d) is currently receiving a Lifeline service from another eligible telecommunications carrier; and whether anyone else living at the prospective subscriber's residential address is currently receiving a Lifeline service.

(2) If the Database indicates that a prospective subscriber, who is not seeking to port his or her telephone number, is currently receiving a Lifeline service, the eligible telecommunications carrier must not provide and shall not seek or receive Lifeline reimbursement for that subscriber.

(3) If the Database indicates that another individual at the prospective subscriber's residential address is currently receiving a Lifeline service, the eligible telecommunications carrier must not seek and will not receive Lifeline reimbursement for providing service to that prospective subscriber, unless the prospective subscriber has certified, pursuant to § 54.410(d) that to the best of his or her knowledge, no one in his or her household is already receiving a Lifeline service.

(4) An eligible telecommunications carrier is not required to comply with paragraphs (b)(1)-(3) of this section if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Lifeline benefit would not result in duplicative support.

(5) Eligible telecommunications carriers may query the Database only for the purposes provided in paragraphs (b)(1)-(b)(3) of this section, and to determine whether information with respect to its subscribers already in the Database is correct and complete.

(6) Eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Lifeline subscriber's full name; full residential address; date of birth and the last four digits of the subscriber's social security number or Tribal Identification number, if the subscriber is a member of a Tribal nation and does not have a social security number; the telephone number associated with the Lifeline service; the date on which the Lifeline service was initiated; the date on which the Lifeline service



was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for Lifeline.

(7) In the event that two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

(8) All eligible telecommunications carriers must update an existing Lifeline subscriber's information in the Database within ten business days of receiving any change to that information, except as described in paragraph (b)(10) of this section.

(9) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Lifeline program, and that failure to provide consent will result in subscriber being denied the Lifeline service.

(10) When an eligible telecommunications carrier de-enrolls a subscriber, it must transmit to the Database the date of Lifeline service de-enrollment within one business day of de-enrollment.

(c) Tribal Link Up and the National Lifeline Accountability Database. In order to receive universal service support reimbursement for Tribal Link Up, eligible telecommunications carriers operating in states that have not provided the Commission with a valid certification pursuant to paragraph (a) of this section, must comply with the following requirements:

- (1) Such eligible telecommunications carriers must query the Database to determine whether a prospective Link Up recipient who has executed a certification pursuant to § 54.410(d) has previously received a Link Up benefit at the residential address provided by the prospective subscriber.
- (2) If the Database indicates that a prospective subscriber has received a Link Up benefit at the residential address provided by the subscriber, the eligible telecommunications provider must not seek Link Up reimbursement for that subscriber.
- (3) An eligible telecommunications carrier is not required to comply with paragraphs (c)(1) through (c)(2) of this section, if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Link Up benefit would not result in duplicative support or support to a subscriber who had already received Link Up support at that residential address.
- (4) All eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Link Up recipient's full name; residential address; date of birth; and the last four digits of the subscriber's social security number, or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a social security number; the telephone number associated with the Link Up support; and the date of service activation. Where two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.
- (5) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the information required in paragraph (c) of this section. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear,



easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Link Up program, and that failure to provide consent will result in the subscriber being denied the Link Up benefit.

11. Revise § 54.405 to read as follows:

**§ 54.405 Carrier obligation to offer Lifeline.**

All eligible telecommunications carriers must:

- (a) Make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers.
- (b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.
- (c) Indicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term “materials describing the service” includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.
- (d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.
- (e) De-enrollment.

(1) De-enrollment generally. If an eligible telecommunications carrier has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer under § 54.409, the carrier must notify the subscriber of impending termination of his or her Lifeline service. Notification of impending termination must be sent in writing separate from the subscriber's monthly bill, if one is provided, and must be written in clear, easily understood language. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination, that requires, at a minimum, written notification of

impending termination, must comply with the applicable state requirements. The carrier must allow a subscriber 30 days following the date of the impending termination letter required to demonstrate continued eligibility. A subscriber making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable annual re-certification requirements, as described in § 54.410(f). An eligible telecommunications carrier must terminate any subscriber who fails to demonstrate continued eligibility within the 30-day time period. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination must comply with the applicable state requirements.

(2) De-enrollment for duplicative support. Notwithstanding paragraph (e)(1) of this section, upon notification by the Administrator to any eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of a subscriber's household is receiving Lifeline service and therefore that the subscriber should be de-enrolled from participation in that carrier's Lifeline program, the eligible telecommunications carrier must de-enroll the subscriber from participation in that carrier's Lifeline program within five business days. An eligible telecommunications carrier shall not be eligible for Lifeline reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

(3) De-enrollment for non-usage. Notwithstanding paragraph (e)(1) of this section, if a Lifeline subscriber fails to use, as "usage" is defined in § 54.407(c)(2), for 60 consecutive days a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers, an eligible telecommunications carrier must provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage under this paragraph. If the subscriber uses the Lifeline service within 30 days of the carrier providing such notice, the eligible telecommunications carrier shall not terminate the subscriber's Lifeline service. Eligible telecommunications carriers shall report to the Commission annually



the number of subscribers de-enrolled for non-usage under this paragraph. This de-enrollment information must be reported by month and must be submitted to the Commission at the time an eligible telecommunications carrier submits its annual certification report pursuant to § 54.416.

(4) De-enrollment for failure to re-certify. Notwithstanding paragraph (e)(1) of this section, an eligible telecommunications carrier must de-enroll a Lifeline subscriber who does not respond to the carrier's attempts to obtain re-certification of the subscriber's continued eligibility as required by § 54.410(f); who fails to provide the annual one-per-household re-certifications as required by § 54.410(f); or who relies on a temporary address and fails to respond to the carrier's address re-certification attempts pursuant to § 54.410(g). Prior to de-enrolling a subscriber under this paragraph, the eligible telecommunications carrier must notify the subscriber in writing separate from the subscriber's monthly bill, if one is provided using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If a subscriber does not respond to the carrier's notice of impending de-enrollment, the carrier must de-enroll the subscriber from Lifeline within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

12. Revise § 54.407 to read as follows:

**§ 54.407 Reimbursement for offering Lifeline.**

(a) Universal service support for providing Lifeline shall be provided directly to an eligible telecommunications carrier, based on the number of actual qualifying low-income consumers it serves.

(b) An eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served. For each qualifying low-income consumer receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amounts described in § 54.403(a) and (c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the

carrier's rate for that offering, or similar offerings, subscribed to by consumers who do not qualify for Lifeline.

(c) An eligible telecommunications carrier offering a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers:

(1) Shall not receive universal service support for a subscriber to such Lifeline service until the subscriber activates the service by whatever means specified by the carrier, such as completing an outbound call; and

(2) After service activation, an eligible telecommunications carrier shall only continue to receive universal service support reimbursement for such Lifeline service provided to subscribers who have used the service within the last 60 days, or who have cured their non-usage as provided for in § 54.405(e)(3). Any of these activities, if undertaken by the subscriber will establish "usage" of the Lifeline service:

(i) Completion of an outbound call;

(ii) Purchase of minutes from the eligible telecommunications carrier to add to the subscriber's service plan;

(iii) Answering an incoming call from a party other than the eligible telecommunications carrier or the eligible telecommunications carrier's agent or representative; or

(iv) Responding to direct contact from the eligible communications carrier and confirming that he or she wants to continue receiving the Lifeline service.

(d) In order to receive universal service support reimbursement, an eligible telecommunications carrier must certify, as part of each request for reimbursement, that it is in compliance with all of the rules in this subpart, and, to the extent required under this subpart, has obtained valid certification and re-certification forms from each of the subscribers for whom it is seeking reimbursement.

(e) In order to receive universal service support reimbursement, an eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline services. Such records shall



be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this Subpart.

13. Revise § 54.409 to read as follows:

**§ 54.409 Consumer qualification for Lifeline.**

(a) To constitute a qualifying low-income consumer:

(1) A consumer's household income as defined in § 54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or

(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families; or

(3) The consumer must meet eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or factors directly related to income.

(b) A consumer who lives on Tribal lands is eligible for Lifeline service as a "qualifying low-income consumer" as defined by § 54.400(a) and as an "eligible resident of Tribal lands" as defined by § 54.400(e) if that consumer meets the qualifications for Lifeline specified in paragraph (a) of this section or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

(c) In addition to meeting the qualifications provided in paragraph (a) or (b) of this section, in order to constitute a qualifying low-income consumer, a consumer must not already be receiving a Lifeline service, and there must not be anyone else in the subscriber's household subscribed to a Lifeline service.

14. Amend § 54.410 to read as follows:

**§ 54.410 Subscriber eligibility determination and certification.**

(a) All eligible telecommunications carriers must implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.

(b) Initial income-based eligibility determination.

(1) Except where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, when a prospective subscriber seeks to qualify for Lifeline or using the income-based eligibility criteria provided for in § 54.409(a)(1) or (a)(3) an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber, unless the carrier has received a certification of eligibility from the prospective subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's income-based eligibility using the following procedures:

(A) If an eligible telecommunications carrier can determine a prospective subscriber's income-based eligibility by accessing one or more databases containing information regarding the subscriber's income ("income databases"), the eligible telecommunications carrier must access such income databases and determine whether the prospective subscriber qualifies for Lifeline.

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's income-based eligibility by accessing income databases, the eligible telecommunications carrier must review documentation that establishes that the prospective subscriber meets the income-eligibility criteria set forth in sections 54.409(a)(1) or (a)(3). Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation



statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information. If the prospective subscriber presents documentation of income that does not cover a full year, such as current pay stubs, the prospective subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.

(ii) Must not retain copies of the documentation of a prospective subscriber's income-based eligibility for Lifeline.

(iii) Must, consistent with § 54.417, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

(2) Where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, an eligible telecommunications carrier must not seek reimbursement for providing Lifeline service to a subscriber, based on that subscriber's income eligibility, unless the carrier has received from the state Lifeline administrator or other state agency:

(i) Notice that the prospective subscriber meets the income-eligibility criteria set forth in §§ 54.409(a)(1) or (a)(3); and

(ii) A copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

(c) Initial program-based eligibility determination.

(1) Except in states where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's program-based eligibility, when a prospective subscriber seeks to qualify for Lifeline service using the program-based criteria set forth in §§ 54.409 (a)(2), (a)(3) or (b), an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber unless the carrier

has received a certification of eligibility from the subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's program-based eligibility using the following procedures:

(A) If the eligible telecommunications carrier can determine a prospective subscriber's program-based eligibility for Lifeline by accessing one or more databases containing information regarding enrollment in qualifying assistance programs ("eligibility databases"), the eligible telecommunications carrier must access such eligibility databases to determine whether the prospective subscriber qualifies for Lifeline based on participation in a qualifying assistance program; or

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's program-based eligibility for Lifeline by accessing eligibility databases, the eligible telecommunications carrier must review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the program-based eligibility requirements. Acceptable documentation of program eligibility includes the current or prior year's statement of benefits from a qualifying assistance program, a notice or letter of participation in a qualifying assistance program, program participation documents, or another official document demonstrating that the prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household receives benefits from a qualifying assistance program.

(ii) Must not retain copies of the documentation of a subscriber's program-based eligibility for Lifeline services.

(iii) Must, consistent with § 54.517, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's program-based eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

(2) Where a state Lifeline administrator or other state agency is responsible for the initial